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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,437	07/16/2001	Brad Albert Delanghe		3433

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EXAMINER

TESLOVICH, TAMARA

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/905,437

Applicant(s)

DELANGHE ET AL.

Examiner

Tamara Teslovich

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION*****Information Disclosure Statement***

All references cited in Applicant's specification have been considered and cited by Examiner on form PTO-892. Accordingly, Applicant need not submit an additional Information Disclosure Statement (PTO-1449).

***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 4-00. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 2 and 3 are objected to because of the following informalities:

Each claim must begin with a capital letter and ends with a period. Periods may not be used elsewhere in the claims except for abbreviations. See *Fressola v. Manbeck*, 36 USPQ2d 1211 (D.D.C. 1995). See also MPEP 608.01[m] for further clarification. Appropriate correction is required.

Claims 2, 4-7 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Regarding claims 4-7, the phrase "can or cannot" fails to further limit claim 1, as it is all encompassing and has been replaced by "cannot" for purposes of examination. Regarding claim 2, the phrase "varying or constant" fails to further limit claim 1 and has been replaced by "constant" for purposes of examination.

It is suggested by the Examiner that Applicant create two distinct claims for each of claims 4-7 wherein one claim is directed to "can be modified" while the second is directed to "cannot be modified".

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

Art Unit: 2137

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claim 1 recites the limitations "the token generator" in line 7, "the token processor" in line 9 and "the token generator" in line 9. There is insufficient antecedent basis for these limitations in the claim.

Claim 1 recites the limitations "the encrypted data sequence" in line 24, "the token processor" in line 24 and "the token processor" in line 27. It is unclear whether "the token processor" refers to the token processor of line 11,13,15,18,21 or 24 and whether "the encrypted data sequence" refers to the encrypted data sequence of line 16 or 18. There is insufficient antecedent basis for these limitations in the claim.

Claim 3 recites the limitation "the algorithm" in lines 5 and 7 and the limitation "the algorithms" in line 8. There is insufficient antecedent basis for these limitations in the claim.

Claim 6 recites the limitations "the algorithm" in line 17. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitations "the algorithm" in line 20. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 2137

***Examiner's Note***

Please note that for the purpose of examination, the following applicant phrases have been considered in terms of the following prior art phrases:

"token" has been considered in terms of "ID" and the common key combination of "P" and "S" (see below for clarification);

"token generator" has been considered in terms of "remote unit";

"token processor" has been considered in terms of "base unit" ;

"secure key" has been considered in terms of "encrypted key" or "Q";

"encrypted data sequence" has been considered in terms of "X".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by

Pogue, Jr. et al.

As per claim 1, Pogue discloses:

A system for providing secure access to secure information comprising:

(see Pogue column 2 lines 35-39)

Art Unit: 2137

a token in the possession of the token generator, where the token itself is random and non-predictable and contains no information but is used for the sole purpose of synchronization of the token processor and the token generator;

(see Pogue column 1 lines 66-68, column 2 lines 56-66, and column 4 lines 40-52)

a token generator containing a transmitter used to pass the said token to a token processor;

(see Pogue column 1 lines 63-66 and column 4 lines 49-52)

a token processor having a reader for said token;

(see Pogue column 1 lines 63-66 and column 4 lines 49-52)

a token processor having the ability to generate a secure key to be used in the token generator to decipher an encrypted data sequence;

(see Pogue column 4 lines 30-39)

a token processor which has the ability to generate an encrypted data sequence based upon the secure key;

(see Pogue column 5 line 26)

Art Unit: 2137

a token processor containing a transmitter used to pass the said secure key back to the token generator;

(see Pogue column 5 lines 27, and 18-20)

a token processor which has the ability to pass the encrypted data sequence for deciphering by the token generator;

(see Pogue column 5 lines 27 and 18-20)

a token generator which has the ability to receive the key from the token processor;

(see Pogue column 5 lines 27 and 18-20)

a token generator which has the ability to process the combination of the token and the key received from the token processor in order to decipher an encrypted data sequence.

(see Pogue column 5 lines 27-28 and lines 16-22)

As per claim 2, Pogue discloses:

A system as claimed in claim 1 wherein the said key is itself time-varying and non-predictable. The said key should be derived from the said token, though it is not solely dependent on it, whether the said token is time constant.

(see Pogue column 4 lines 30-39)



As per claim 3, Pogue discloses:

A system as claimed in claim 1 wherein the algorithm used in the token processor to generate the encrypted data sequence is embedded inside the token processor itself and the algorithm used in the token generator to decipher the encrypted data sequence is embedded inside the token generator itself. The algorithms used in token generator and the token processor must match each other.

(see Pogue column 4 lines 30-39)

As per claim 4, Pogue discloses:

A system as claimed in claim 1 wherein the said token cannot be modified by outside influences.

(see Pogue column 3 lines 54-67 and column 4 lines 1-53 for possible secure cryptographic implementations)

As per claim 5, Pogue discloses:

A system as claimed in claim 1 wherein the said key cannot be modified by outside influences.

(see Pogue column 3 lines 54-67 and column 4 lines 1-53 for possible secure cryptographic implementations)

As per claim 6, Pogue discloses:

Art Unit: 2137

A system as claimed in claim 1 wherein the algorithm used inside the token processor to generate the encrypted data sequence cannot be modified by outside influences.

(see Pogue column 3 lines 54-67 and column 4 lines 1-53 for possible secure cryptographic implementations)

As per claim 7, Pogue discloses:

A system as claimed in claim 1 wherein the algorithm used inside the token generator to decipher the encrypted data sequence cannot be modified by outside influences.

(see Pogue column 3 lines 54-67 and column 4 lines 1-53 for possible secure cryptographic implementations)

### ***Conclusion***

Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Art Unit: 2137

**Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Art Unit: 2137

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara Teslovich whose telephone number is (571) 272-4241. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2137

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew Caldwell  
Andrew Caldwell